

**ORGANIZATION OF  
AFRICAN UNITY  
SECRETARIAT**

**P. O. Box 3243**

**ADDIS ABABA**

**ORGANISATION DE L'UNITE  
AFRICAINNE  
SECRETARIAT**

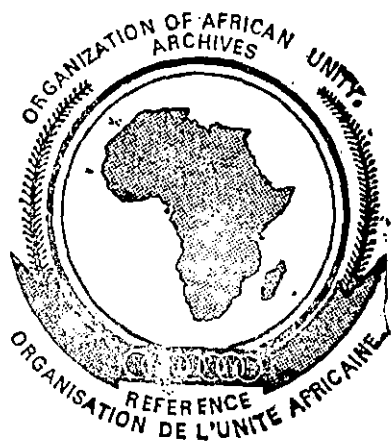
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CM/134

Annex IV/Rev.1.

COUNCIL OF MINISTERS  
Ninth Ordinary Session  
Kinshasa - September 1967

DRAFT CONVENTION ON THE STATUS OF REFUGEES IN AFRICA  
AS REVISED BY THE GENERAL SECRETARIAT



Draft Convention on the Status of Refugees in Africa  
as Revised by the General Secretariat

Explanatory Note

In accordance with Resolution CM/Res.88 the General Secretariat forwarded the Draft Convention on the Status of Refugees to Member States for their comments and observations but only three states, the Imperial Ethiopian Government, the Republic of Comorens and the Government of Sierra Leone sent in their comments.

Considering the wish of the Council of Ministers as expressed in the sixth preambular paragraph of Resolution CM/Res.88 which states as follows:-

"Desirous that the African instrument should govern the specifically African aspects of the refugee problem and that it should come to be the effective regional complement of the 1951 U.N. Convention on the Status of Refugees",

the General Secretariat has revised the Draft prepared in Addis Ababa in September 1966 by removing some of the Articles which duplicate certain provisions of the 1951 and retaining those that are considered as very essential in dealing with the refugee problem in Africa.

ANNEX IV/Rev.1.

DRAFT CONVENTION RELATING TO THE STATUS OF REFUGEES IN AFRICA

PREAMBLE

We the Heads of State and Government assembled in the city of

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Noting with concern the existence of the growing numbers of refugees in Africa and desirous of finding ways and means of alleviating their misery and suffering as well as providing them with a better life and future,

Recognizing the need for an essentially humanitarian approach towards solving the problems of refugees,

Aware, however, that the refugee problems are a source of friction among several member-states, and desirous of eliminating such discord,

Anxious to make a distinction between a refugee who seeks a peaceful and normal life and a person fleeing his country in order to subvert it from outside,

Determined that the activities of such subversive elements should be discouraged, in accordance with the Declaration on the Problem of subversion and the Resolution on the Problem of Refugees adopted at Accra in 1965,

Conscious that the Charter of the United Nations and the Universal Declaration of human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the Member States should co-ordinate and harmonize their general policies and grant refugees minimum legal rights,

Convinced that the efficiency of the measures recommended by the present Convention to solve the problem of refugees in Africa necessitates close and continuous collaboration between the Organization of African Unity and the United Nations High Commission for Refugees.

Have agreed as follows:

Article I  
Definition

1. For the purposes of this Convention the term "refugee", shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear is unwilling to return to it.

2. In the case of a person who has more than one nationality the term "the country of which he is a national" shall mean each of the countries of which he is a national and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

3. This Convention shall cease to apply to any refugee under this Convention if:

- (a) he has voluntarily re-availed himself of the protection of the country of his nationality, or
- (b) having lost his nationality he has voluntarily re-acquired it, or
- (c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution.

- (e) he can no longer, because the circumstances in connection with which he was recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;
- (f) he has committed a serious non-political crime outside his country of refuge after his admission to that country as a refugee;
- (g) he has seriously infringed the purposes and objectives of this Convention.

4. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that;

- (a) He has committed a crime against peace, a war crime, or a crime against humanity as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) He has been guilty of acts contrary to the purposes and principles of the Organization of African Unity;
- (d) He has been guilty of acts contrary to the purposes and principles of the United Nations.

## Article II

### Asylum

1. Member States shall use their best endeavours consistent with their laws and constitutions to receive all refugees and to secure the settlement of those refugees who, for well-founded reasons, do not want to return to their country of origin or nationality.

2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.
3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraph 1.
4. Where a Member State finds difficulty in continuing to grant asylum to refugees, other Member States shall consider, in a spirit of African solidarity and international co-operation, appropriate measures to lighten the burden of the Member State granting asylum.
5. Where a refugee has not received the right to reside in any country of asylum, he shall have a prior claim to temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with Article II, paragraph 4.
6. Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any state whatsoever.

### Article III

#### Prohibition of Subversive Activities

Member States shall undertake to prohibit refugees residing in their respective territories, from attacking any Member State of the Organization of African Unity either through press or radio, with arms or through any other activities which may cause tension between the Member States.

### Article IV

#### Non-Discrimination

Member States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article V

Religion

Member States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards religious education for themselves and for their children.

Article VI

Residence Prior to this Convention

Where for reasons and circumstances set out in Article 1 of this Convention an individual has been residing in the territory of a Member State prior to the date of entry into force of this Convention, subject to the provisions of Article 1 of this Convention, such period of residence shall be considered to have been lawful residence within the territory of a Member State, and such an individual shall be considered a refugee within the terms of this Convention; provided that the rights and benefits accorded to such a refugee by virtue of this Convention shall not have any retroactive effect,

Article VII

Movable and Immovable Property

Member States shall accord to a refugee treatment as favourable as possible and, in any event not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article VIII

Right of Association

As regards non-political and non-profit making associations and trade unions the Member States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances in accordance with the laws of the Member States.

Article IX  
Liberal Professions

Each Member State shall accord to refugees, lawfully staying in their territory, who hold academic or professional qualifications recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, the most favourable treatment as that accorded to nationals of a foreign country.

Article X  
Identity Papers

Member States shall issue to refugees in their territories standard identity papers in accordance with the Schedule to this Convention.

Article XI  
Travel Documents

1. Subject to Article 3, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the Schedule to this Convention for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require. Member States may issue such a travel document to any other refugee in their territories; they shall in particular give sympathetic consideration to the issue of such travel documents to refugees in their territories who are unable to obtain a travel document from the countries of their lawful residence.
2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by Member States in the same way as if they had been issued pursuant to this Article.

Article XII  
Transfer of Assets

1. Member States shall, in conformity with their laws and regulations, permit refugees to transfer assets, which they have brought into their territory, to another country where they have been admitted for the purpose of resettlement.



2. Member States shall give sympathetic consideration to the application of refugees for permission to transfer assets which are necessary for their resettlement in another country to which they have been admitted.

#### Article XIII

##### Refugees unlawfully in the Country of Refuge

1. Member States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves at the first available opportunity to the authorities.

2. Member States shall not apply to the movement of such refugees restrictions other than those which are necessary and such restrictions shall not be applied until their status in the country is regularized or they obtain admission into another country. Member States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

#### Article XIV

##### Repatriation

1. No refugee shall be repatriated against his will.

2. In examining the question of repatriation of refugees, appropriate arrangements shall be made by the Member State which has granted them asylum for ascertaining the free will to return of the person concerned, and, in co-operation with the country of origin, shall make adequate arrangements for the safe return of the refugees.

#### Article XV

##### Expulsion

1. Member States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. Member States shall allow such a refugee a reasonable period within which to seek legal admission into another country. Member States reserve the right to apply during that period such internal measures as they may deem necessary.

#### Article XVI

##### Co-operation of the National Authorities with the Organization of African Unity

In order to enable the Administrative Secretary-General of the Organization of African Unity to make reports to the competent organs of the Organization of African Unity, Member States undertake to provide the Secretariat in the appropriate form with information and statistical data requested concerning:

- (a) the condition of refugees,
- (b) the implementation of this Convention and
- (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

#### Article XVII

##### Co-operation with the United Nations High Commission for Refugees

1. Member States shall co-operate with the United Nations High Commission for Refugees.

2. In accordance with Resolution AHG/Res.26, Member States shall, save as herein provided, apply the provisions of the U.N. Convention of 28 July 1951 relating to the status of refugees, irrespective of the dateline and of any geographical limitation as provided in the Protocol on the Status of Refugees of 31 January 1967.

3. The present Convention shall be the effective regional complement in Africa of the 1951 United Nations Convention on the Status of Refugees.

#### Article XVIII

##### Settlement of Disputes

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means,

shall be referred to the Mediation, Conciliation and Arbitration Commission of the Organization of African Unity, at the request of any one of the parties to the dispute.

Article XIX

Signature and Ratification

1. This Convention is open for signature to all Member States of the Organization of African Unity and shall be ratified by Member States in accordance with their respective constitutional processes.
2. The original instrument done if possible in African languages in English and French, all texts being equally authentic, should be deposited with the Administrative Secretary-General of the Organization of African Unity.
3. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organization of African Unity.

Article XX

Adhesion and Accession

Any independent Sovereign African State, member of the Organization of African Unity, may at any time notify the Administrative Secretary-General of its adhesion or accession to this Convention.

Article XXI

Entry into force

This Convention shall come into force as of the day of deposit of the instrument of ratification by two-thirds of the Member States of the Organization of African Unity.

Article XXII

Denunciation

1. Any Member State may denounce this Convention at any time by a notification addressed to the Administrative Secretary-General of the Organization of African Unity.

2. Such denunciation shall take effect for the Member State concerned one year from the date upon which it is received by the Administrative Secretary-General of the Organization of African Unity;

Article XXIII

Amendment

This Convention may be amended or revised if any Member State makes a written request to the Administrative Secretary-General to that effect; provided that the proposed amendment is not submitted to the Assembly of Heads of State and Government for consideration until all Member States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two-thirds of all the Member States.

Article XXIV

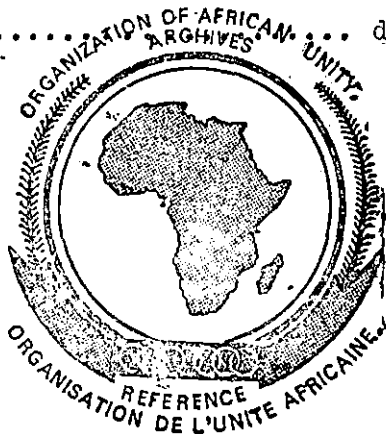
Notifications by the Administrative Secretary-General  
of the Organization of African Unity

The Administrative Secretary-General of the Organization of African Unity shall inform all Members of the Organization:

- (a) Of signatures and ratifications in accordance with Article 19.
- (b) Of adhesion and accession in accordance with Article 20.
- (c) Of entry into force in accordance with Article 21.
- (d) Of denunciations in accordance with Article 22.
- (e) Of requests for amendment in accordance with Article 23.

IN FAITH WHEREOF, WE the Heads of African State and Government have signed this Convention.

DONE in the City of .....  
this ..... day of ..... 19.....



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# Draft convention on the Status of Refugees in Africa as revised by the General Secretariat

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